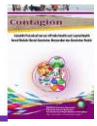
Contagion : Scientific Periodical of Public Health and Coastal Health 3(2)(2021)
ISSN : http://jurnal.uinsu.ac.id/index.php/contagion



The Maqashid Al-Sharia Ijtihad Approach and The Requirements for a Safe and Healthy Campus Free From Sexual Violence in Indonesian Universities

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Track Record Article

Accepted: 11 October 2021
Revised: 8 November 2021
Published: 2 December 2021

How to cite :
Khoiri, N. (2021). The Maqashid Al-Sharia Ijtihad Approach and The Requirements for a Safe and Healthy Campus Free From Sexual Violence in Indonesian Universities. *Contagion: Scientific Periodical Journal of Public Health and Coastal Health*, *3*(2), 166–175.

Abstract

This research is a qualitative descriptive library research. The research approach is normative (usul fiqh) to study and analyze the maqashid al-syariah ijtihad method to examine and find the values of benefit related to the idea of implementing a free and healthy campus from sexual violence (KMSKS) in universities in Indonesia. The results of the study found MKSKS to be an alternative to the protection and prevention of sexual violence in the university environment in Indonesia. They are strengthened through strengthening - strengthening including the commitment of the leadership, the formation of a sexual violence protection and prevention task force, conducting socialization and education on various categories of sexual violence crimes, conducting socialization and education on the importance of an independent and healthy campus from sexual violence, providing convenience and security in reporting cases, protection for reporters and survivors and follow-up on each report and others. It is certain that the maslahat values found provide benefits (maintenance of religion, self, mind, property and offspring) to the academic community. Finding these values is carried out through the ijtihad maqashid al-sharia method using istiqra' (inductive research or study) and determination through al-ma'qul (logic).

Keyword: Maqashi al-Syariah, Independent Campus, Healthy, Sexual Violence, Campus and College.

INTRODUCTION

The college campus appears to have lost its status as a secure and comfortable environment to safeguard against sexual violence. The campus environment, intended to foster education, should ideally provide a favourable atmosphere, excellent facilities, and strong connections with external entities, such as other universities (M. Handayani, 2017). However, instead of being a haven, the campus is unfortunately characterised by the presence of sexual violence, which manifests in various forms, including verbal, non-physical, and online or technological harassment. Campus must take decisive action to eradicate sexual violence and establish itself as a place free from such misconduct. Instances of sexual violence persist among students and fail to show any signs of improvement, thus becoming a widespread concern. Indonesia currently faces a severe crisis of sexual violence, which may be likened to an iceberg phenomenon (Syamsiati, 2016). Sexual violence is significantly underreported, with the actual incidence being much higher than official figures suggest. Consequently, the prevalence of reported sexual violence, although seemingly limited, indicates the existence of other cases that

have emerged and gained momentum, particularly within the academic setting (Agustini, 2021).

Sexual violence is any act that degrades, insults, harasses, and attacks the body of a person's reproductive function based on the inequality of power relations and gender, resulting in psychological and physical suffering, including disrupting reproductive health (R. Handayani, 2020); (Anggreni, 2017); (Kahfi & Hamidah, 2018). A free and healthy campus is free from acts of sexual violence, which include demeaning, humiliating, harassing, and attacking the body of a person's reproductive function based on power and gender inequality. Such acts result in psychological and physical suffering, including disruption of reproductive health (AUN-Promotion Network, 2017); (Prabandari, 2021). The Regulation of the Minister of Education, Culture, Research, and Technology No. 30/2021 concerning the Prevention and Handling of Sexual Violence in the Higher Education Environment mandates that it provide enthusiasm to fight and eradicate cases of sexual violence in the higher education environment, as well as Prevention and handling of violence within the education unit as a guideline towards goodness or progress in preventing and handling cases of sexual violence.

Indonesia recorded 19,593 cases of violence, with 17,347 female victims and 3,987 male victims. The age group of 13-17 years was the most affected, accounting for 38% of the total. Sexual violence was the most common, with 8,585 cases, followed by physical and psychological violence. The state has implemented regulations to prevent and manage sexual violence in higher education, including the ratification of CEDAW through Law No. 7/1984 and the creation of a specialist Lex to regulate sexual violence. However, creating a campus free from sexual violence remains a challenge due to the academic community's belief that sexual violence is a matter of decency and the ethics commission (M. Handayani, 2017). Consent in the context of sexual violence is often misinterpreted as consent, ignoring the power dynamics between individuals and groups, which can encourage promiscuous sex. There are also concerns that sexual violence crimes may encourage free sex on campus (Emrianti, 2021).

The campus believes that efforts to prevent and handle sexual violence are complicated and require significant resources (Noviana, 2015). However, a Prevention and Management of Sexual Violence task force team should be created as a special body to handle sexual violence on campus. Consistently pursuing various strategic measures to combat and eradicate sexual violence on campus is imperative for upholding the dignity and integrity of the academic community (Ojikutu et al., 2016). The prevalence of sexual violence in higher education can

have negative consequences for the effective execution of the threefold mission of higher education and, ultimately, the quality of education provided. The campus should be a place for fostering the growth and development of the nation's potential, nurturing student morality, and cultivating exceptional human resources rather than a breeding ground for sexual violence that degrades the dignity of the academic community. Members of the campus community must recognize that sexual violence is a detriment to the progress and well-being of the academic community as a whole. A campus free from sexual violence serves as a powerful tool for eradicating this scourge from the university environment. Establishing key principles, such as the commitment of leadership and the community, the formation of a task force, education and socialization on healthy campuses, ease and security in reporting cases, protection for reporters and survivors, and follow-up on each report, are all essential steps in achieving this goal. Taking these measures will ensure the complete elimination of sexual violence from the campus (Febriandi, 2021).

This study seeks to examine and delve into the perspective of Usul Fiqh through the utilization of maqashid al-sharia as one of the approaches to ijtihad and its role in interpreting and analyzing in order to determine and validate that it is necessary to implement strategic measures to achieve the education that is free from sexual harassment. To put it another way, the scholars of Usul Fiqh have developed maqashid al-sharia as a method of ijtihad in order to protect individuals as mukallaf, preventing them from enduring harm and misfortune and enabling them to attain the advantages of both the worldly life and the hereafter according to the objectives of the shari'a.

METHODS

This study utilized a descriptive-qualitative library research approach. This method involved collecting data from library-sourced materials, such as classical and contemporary legal theory products, legal (fiqh) books, and journals, to address the legal issues under investigation. The approach to research in this study focuses on investigating usul fiqh science, which is a science of sources and basic methodology in Islamic jurisprudence. This study employs a normative approach that investigates usul fiqh science, encompassing Islamic jurisprudence's sources and basic methodology. This field of study encompasses a collection of methods and techniques for understanding the sources and propositions of Islamic law. A thorough examination of usul fiqh will lead to a deeper understanding of the intent of Sharia regulations and the assumptions underpinning the sources and propositions. Usul Fiqh's science discusses understanding the sources of arguments in expressing the content of the law and the

position of arguments. One of the areas of discussion within usul fiqh science is maqashid al-sharia, which emphasizes that all provisions in sharia are aimed at promoting the maslahah, or benefits, goodness, and peace of mankind in all their affairs, both in this world and in the hereafter (As-Syatibi, 2003). The concept of maqashid al-sharia serves as an analytical tool to identify the benefits of the idea of a free and healthy campus free from sexual violence in universities across Indonesia.

The data source intended for this research is a person or entity from which data is collected. The data collected in this study is through a search of literature, norms, or regulations related to the topic of legal research conducted. The source of this research material uses primary sources and secondary sources. Primary sources are data obtained originally or collected directly in the field or from the person concerned. In this study, the primary sources are The Koran, hadiths, and ijtihad products described in the books of usul fiqh, both classical and contemporary. Secondary sources are supporting materials such as all rules and regulations related to sexual violence.

Data collection techniques are carried out by searching for materials considered relevant to the research topic. The mechanism for collecting library materials involves reading, understanding, researching, and analyzing books or materials related to maqashid al-sharia and relevance to the independent campus from sexual violence. This is done to develop the problem under study. The collected data is then processed and given a code to facilitate the desired data collection process (Sastroasmoro, 2017).

The collected data is analyzed using normative legal analysis methods that adhere to scientific rules, including identifying the opinions of scholars of usul fiqh, jurists, and others regarding maqashid al-sharia. The analysis aims to discover the value of the benefit as an important conclusion to the research object through research methods. Researchers use data veracity to determine the scientific nature of the research and to test the accuracy of the obtained data. Researchers assess the validity of qualitative research data through credibility, transferability, dependability, and confirmability tests.

RESULTS

1. The Position of Maqashid al - Sharia as Legal Evidence.

Maqashid al-Sharia refers to two words: maqashid, which is the plural of maqshad (مقصد), a word derived from the masdar form of qashada (يقشد). This means to direct oneself

towards a goal, aim, middle, fairness, and moderation while avoiding excess. According to Ahsan Lilhasanah, maqashid signifies a strong desire, determination, and deliberation. Hans Wehr defines it as "intentionality or purpose." Ibn Manzur explains the meaning of maqashid from various perspectives, including: 1. firmness on a path (Istiqamah al-thariq) and something that serves as a foundation (Al-iltimad). Qs an-Nahl: 90 mentions both a straight path and a crooked one, which is relevant to the concepts of firmness on a path (Istiqamah al-thariq) and something that serves as a foundation (Al-iltimad). Allah explains that He guides those on the straight path, while those who stray do so of their own volition. 2. Justice (Adl) and taking the middle path, which is neither too loose nor too narrow (Tawassuth 'adam al-ifrath wa al-tafrith). This is illustrated by the statement, "You must act qasd (fairly) in all your affairs, both in doing andsaying- words," which means taking the middle way (al-wasath) in two different things.Qs. Luqman: 19 advises individuals to be modest in their walk and lower their voice, as the worst sound is that of a donkey. 3. Solving problems by any means necessary (Al-kasyr fi ayy kana). For example, someone may say, Qashadatuu al-'ud qashdan kasartuhu" (I have solved a problem, meaning I have solved it completely).

The word "sharia" reportedly derives from syara'a, yasyra, wa syuru." According to Ibn Manzhur, sharia signifies "a place of running water, where animals drink from" (Maurid al-ma' alladzi tasyrau fihi al-dawab). Furthermore, the term sharia denotes "al-din-al-milah (religion), al-thariq (path), al-minhaj (method), and al-sunnah (custom)."Fazlur Rahman interprets sharia as "lil mawadi'u tahdharu ilal ma'i" (the path to the source of water can also be seen as the path to the fundamental source of life). Muhammad Salam Madkur, in his terminological interpretation, characterizes sharia as the law stipulated by Allah through His Messenger, whereby individuals adhere to the law based on their faith, encompassing belief, amaliyah (worship—muamalah), and morals.

Maqashid alShariaa is a term used by Usuli scholars to refer to the underlying objectives of the provisions of Islamic law (Nurhayati, 2020). According to Imam al-Ghazali, a student of Imam al-Juwaini, maqashid refers to the preservation of maslahat (benefits), the rejection of things detrimental to maslahat, and the pursuit of maslahat. Al-Syatibi defines maqashid al-shariah as realising human benefits in this world and the hereafter. Ibn 'Assur states that maqashid al-shariah is the wisdom and meaning demonstrated by Allah in all or most of His sharia, including its nature and general purpose. Ibn Qayyim defines maqashid al-shariah as Islamic law based on the benefits of this world and the hereafter and contains all forms of justice and compassion. Wahbah al-Zuhaili defines maqashid al-sharia as the meaning and

purpose that can be understood in every law and interpreted as the ultimate goal of Islamic law. Based on the various definitions provided, one can conclude that the establishment of the law aims to provide human benefits and prevent harm (Marpaung, 2020).

Ulemas construct and develop the theory of maqashid al-sharia by rooting it in the arguments presented in the texts (the Quran and the hadith) and ijtihad. Some scholars have categorized the verses and traditions as a legal foundation for the theory of maqashid al-sharia. Numerous verses from the Quran, including but not limited to Qs. Al-Hajj: 78, Qs. An-Nisa': 28, Qs. Al-Baqarah: 286, Qs. Al-Baqarah: 185, Qs. Al-Ma'idah: 6, Qs. Al-A'raaf: 157, and Qs. At-Talaaq: 7 serves as the legal basis for the theory, as al-Syatibi posits that the laws of God are beneficial, as evidenced by the Qur'an..[1] Qs are among the verses and hadiths cited as evidence against the position of Maqashid al-sharia. An-Nisa': 165, Qs. Al-Anbiya: 107, Qs. Al-Hud: 7, Qs. Al-Zariyat: 56, Qs. Al-Mulk: 2, Qs. Al-Maidah: 6, Qs. Al-Ankabut: 45, Qs. Al-Hajj: 39, and Qs. Al-Baqarah:179. Furthermore, certain traditions of the Prophet contradict the position of maqashid al-sharia. For instance, in a tradition found in Sunan Nasa'i, Abi Hurairah ra narrates the Prophet SAW's statement that "Verily religion (Islam) is easy." Another hadith from Said Ibn Abi Burdah explains that the Messenger of Allah SAW instructed Mu'adz Ibn Jabal to make Islam easy and not difficult and to encourage rather than fear (Lubis, 1982).

The application of maqashid al-sharia in Islamic jurisprudence is based not only on the Quran and Hadith text but also on the consensus of scholars (ijma' ulama) but also on the rules of fiqh. In his work, al-Muawafaqat al-Syatibi presented the rules of maqashidal-sharia, which serve as the foundation for ijtihad based on maqashid al-sharia. According to Abdurrahman Ibrahim al-Kilamni, as quoted by Ahmad Imam Mawardi, al-Syatibi's rules of maqashid al-sharia can be categorized into three major categories: rules relating to the theme of problemat and mafsadat, rules relating to the theme of basic removal of difficulties (rafal-haraj)), and rules relating to the consequences of actions and goals of people mukallaf. This categorization suggests that maqashid al-sharia aims to achieve the ultimate goal of a legal provision, serving as its main basis (Karima, 2021).

c. Division of Maqashid al-Sharia.

[1] Al – Syatibi, *al – Muwafaqat fi Ushul al – Syariah,* Jilid I (Kairo : Mustafa Muhammad , t.th), h. 6 - 7

Al-Syatibi's maqashid al-sharia divides it into two parts: maqashid al-shari' (God's purpose) and maqashid al-mukallaf (the purpose of the individual). The division focuses on maqashid al-shari', as it is the foundation for the individual. Maqashid al-Sharia includes four aspects: (1) The initial purpose of Sharia is to benefit humans in this world and the hereafter; (2) Sharia must be understood; (3) Sharia is a taklif law that must be carried out; and (4) the purpose of Sharia is to bring people under the protection of the law. Sharia realizes human benefit by fulfilling the five basic elements: religion, soul, offspring, mind, and property. Ibn 'Assur further divided maqashid al-sharia into two parts: (1) al-maqashid al-syariyyat al-ammah (general purpose), meaning the wisdom and purpose of Sharia in all or most legislative circumstances; (2) al-maqashid al-syariyyat al-khassah (special purpose), which refers to the means intended by the Shar'i to achieve beneficial human goals or preserve the maslahat of humankind in specific activities (Syatibi, 1990).

To comprehend and maintain the fundamental principles of maqashid al-sharia, al-Syatibi and other scholars have categorized them into three levels, namely: (1) Maqashid al-Daruriyat (primary needs), (2) Maqashid al-Hajjiyat (secondary needs), and (3) Maqashid al-Tahsiniyat (tertiary needs). Maqashid al-Daruriyat (primary needs) are the most critical and essential requirements for human existence. Failure to fulfil these needs can jeopardize human life in the present world and the afterlife. These needs include safeguarding religion, self, mind, property, and offspring. Revising these requirements to ensure human safety in this world and the next is necessary. Maqashid al-Hajjiyat (secondary needs) are needs that come after primary needs. Failure to fulfil these needs only creates difficulties for humans in carrying out activities without harming the five basic elements (religion, self, mind, property, and offspring). These needs complement the primary needs, for example, facing the Qibla during prayer (Djazuli, 2007). Maqashid al-Tahsiniyat (tertiary needs) are things that, when present, lead to the perfection of order and enable people to live in peace, making the community appear good in the eyes of others. To fully grasp the concept of maqashid al-sharia, it is essential to possess several crucial requirements, as stated by al-Syatibi, including (1) knowing Arabic, (2) possessing knowledge of the sunnah, and (3) understanding the causes of the revelation of verses, known as the Asbab al-Nuzul Ayat. One must have a thorough understanding of the background that led to the revelation of the verse to comprehend the content of the Quran perfectly. Therefore, knowledge of the causes of the revelation of verses is a prerequisite for understanding the Quran (Amelia, 2021).

2. Construction of KMSKS's Welfare Values from the Perspective of Maqashid Al - Shari

The aim of establishing a knowledge management system for Kampus Keselamatan Sexual (KMSKS) is to confer advantages upon the campus community and academic circle. Guiding principles should reinforce this objective and support the proper implementation of KMSKS. Furthermore, enhancing other elements is not only limited to the concept itself but also plays a crucial and complementary role in achieving the overall objectives. These elements include (1) the unwavering commitment of the administration to enforce KMSKS and (2) the necessity of the formation of an institutional task force that focuses on the prevention and protection against sexual violence in the university environment. (3) conducting education and socialization on 21 categories of sexual crimes that can compromise the health and reputation of higher education; (4) conducting education and socialization on the significance of a free and safe campus environment free from sexual violence (5) providing convenience and security in reporting cases, ensuring protection for both reporters and survivors and following up on each report and others.

A healthy and secure campus environment free from sexual violence is advantageous to the academic community, as it safeguards their religion, soul, mind, property, and offspring (Klein, 2015). Implementing KMSKS in the university setting can improve the morale of the academic community by promoting good religious practices and preventing sin. The academia's soul can remain healthy and tranquil, untainted by sexual crimes, which can help avert psychological issues such as depression, anxiety, personality disorders, and self-harm.

Furthermore, implementing KMSKS can maintain the reason of the academic community. Perpetrators of sexual violence often have an unstable mental state, which poses a threat to their environment and the mental health of their victims. KMSKS can protect the assets of the academic community, preventing poverty and focusing on economic growth.

Lastly, KMSKS can preserve the offspring of the academic community by raising awareness of the consequences of sexual violence, thus preventing children and themselves from being subjected to various crimes. This can also help prevent the spread of sexually transmitted diseases and have implications for honour and procreation. The various values of benefit above (hifdz ad - din, hifdz an - nafs, hifdz al - aql, hifdz al - mal, hifdz an - nasl) become a sure step to realize a strong correlation with the implementation of a free and healthy campus from sexual violence in the university environment in Indonesia.

3. Method of finding values for KMSKS

The maqashid al-syariah ijtihad method serves as a guide for ulemas in identifying the values of benefit for KMSKS through four crucial schemes: the affirmation of the Qur'an, the affirmation of the Prophet's sunnah, the existence of istiqra' (inductive research), and the determination through al-ma'qul (logic). This research study centres on the concept of KMSKS, which aims to safeguard a free and healthy campus from sexual violence in higher education settings. Sexual violence has emerged as a pressing issue, causing numerous victims in the academic community and jeopardizing the integrity of the campus. The academic community and Indonesian education's future are at stake, and it is imperative to address and eradicate sexual violence promptly. KMSKS is regarded as a commendable concept that holds values of benefit (religion, soul, mind, property, and offspring) applicable to the life of any Indonesian campus. The idea of implementing KMSKS is reinforced by scientific research methodology, including establishing a PPKS task force, disseminating information and education on sexual crimes on campus, providing convenience and safety in reporting cases, and following up on each report (Rahman, 2018).

CONCLUSIONS

Establishing a campus that is free from sexual violence is a crucial step in preventing and protecting against sexual violence in higher education in Indonesia. This can be achieved through a range of measures, including strong leadership commitment, the formation of a PPKS task force, education and awareness-raising on the types and consequences of sexual violence, and the provision of support and security for reporting and survivors. Implementing these measures is guided by the principles of maqashid al-sharia ijtihad, which involves inductive research and logical analysis. The ultimate goal of these efforts is to create a safe and healthy environment for all campus community members.

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